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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,119	01/20/2004	Hajime Sugito	4041K-000168	3126
27572	7590	06/06/2007		
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER FORD, JOHN K	
			ART UNIT 3744	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,119

Applicant(s)

SUGITO ET AL.

Examiner

John K. Ford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/13/07
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

ELECTION:

Applicant's election of the third embodiment principally illustrated in Figures 9 and 10, without traverse is acknowledged. Applicant has identified claims 1-6 as readable on the elected species. After some consideration it appears that Figures 9 and 10 are not illustrations of the same device but are each variants of the other with mutually exclusive characteristics. Most notable is a cross-communication passage 101 in Figure 10 that does not appear to exist in Figure 9. As well Figure 10 shows heat-producing chips 11 at the top of the device as well as the bottom, whereas Figure 9 appears to only disclose chips 11 at the bottom.

This application contains claims directed to the following patentably distinct species:

- first sub-species of the elected third embodiment illustrated in Figure 9 and
- second sub-species of the elected third embodiment illustrated in Figure 10.

The species are independent or distinct because they each possess mutually exclusive characteristics that are a serious burden to search for in the extremely limited time allotted to the examiner by the PTO for searching the prior art.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable. Currently, it appears that claim 1 may be generic to the aforementioned sub-species.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

REQUEST FOR COMPLETE ILLUSTRATION OF THE PRIOR ART:

Further complicating the examination is the fact that the examiner has been given no disclosure of how the internal passageways are formed/disposed in the conceded prior art of Figures 46 and 47. A preliminary analysis of the claimed subject matter by the examiner has determined that the two distinct pieces of prior art illustrated in Figures 46 and 47, respectively, may be the closest prior art to what is claimed that exists. None of the prior art references submitted by applicant, thus far, corresponds to what is shown in Figures 46 and 47. Pursuant to Rule 56, the examiner is requiring

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disclosure of the plate structure (specifically the apertures that define the respective cooling water and refrigerant paths set out in "plan view" for each of the plates of the prior art illustrated in Figures 46 and 47, analogous to what applicant has shown in Figures 5A-6C with respect to his own invention). These illustrations need not be formal drawings and they do not need to be formally added to the original disclosure. If patent or publications exist that correspond to the prior art illustrated in Figures 46 and 47, those patents/publications should be submitted as well. Finally, on this particular issue, the examiner has discovered USP 6,742,574, which apparently may satisfy some of the examiner's request, but given its date of first publication (USP 2003037908A1) on February 27, 2003, it is unclear what its prior art status actually is. Should the examiner be treating USP 2003037908A1 as prior art based on the fact that Figures 46 and 47 of the current application appear to concede its prior art status? If conceded prior art Figures 46 and 47 are prior art but different from USP 2003037908A1, the examiner will need further disclosure of conceded prior art Figures 46 and 47. Please clarify the record. As well, USP 6,742,574 appears to be available as prior art under 35 USC 102(e) because the inventorship is different. Does applicant agree?

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John K. Ford
Primary Examiner